

House File 854 - Introduced

HOUSE FILE 854

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 809)

(SUCCESSOR TO HSB 264)

A BILL FOR

1 An Act providing for delinquency fees for executive branch
2 agencies for untimely rulemaking in certain circumstances
3 and including effective date and retroactive applicability
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 17A.4, Code 2021, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 10. *a.* For purposes of this subsection,
4 *"provision of an Act of the general assembly that expressly*
5 *requires rulemaking"* means a provision within the text of an Act
6 of the general assembly that explicitly requires rulemaking,
7 without reference to any statutory provision that is not
8 included in the text of the Act.

9 *b.* (1) If an agency submits written notification to the
10 administrative rules review committee pursuant to subsection
11 9, paragraph *"a"*, subparagraph (2), for a provision of an Act
12 of the general assembly that expressly requires rulemaking by
13 the agency, the committee may, by a majority vote, reject the
14 notification.

15 (2) The committee may, by a majority vote, find that an
16 agency did not make a timely submission for a provision of an
17 Act of the general assembly that expressly requires rulemaking
18 by the agency as required pursuant to subsection 9, paragraph
19 *"a"*.

20 *c.* If the administrative rules review committee rejects a
21 written notification for a provision of an Act of the general
22 assembly that expressly requires rulemaking by an agency, or
23 if the committee finds that an agency did not make a timely
24 submission for a provision of an Act of the general assembly
25 that expressly requires rulemaking by the agency as required
26 pursuant to subsection 9, paragraph *"a"*, the committee may,
27 by a majority vote, impose a delinquency fee on the agency of
28 one thousand dollars per Act. The committee shall provide a
29 representative of the agency an opportunity to address the
30 committee concerning the rejection or lack of submission before
31 imposing such a fee. The committee shall notify the agency in
32 writing of the amount of the fee and the Acts of the general
33 assembly for which the fee was imposed.

34 *d.* No later than fourteen calendar days after receiving
35 written notice of a delinquency fee pursuant to paragraph *"c"*,

1 an agency shall do one of the following:

2 (1) Remit the amount of such fee to the treasurer of state
3 who shall deposit the moneys in the general fund of the state.
4 The agency shall only pay such remittance from funds available
5 for salaries, support, maintenance, or other administrative
6 costs of the agency. The agency shall not pay such remittance
7 from funds allocated for any program or nonadministrative duty
8 or function of the agency.

9 (2) Submit a notice of intended action to the administrative
10 rules coordinator and the administrative code editor pursuant
11 to subsection 1 for the required rulemaking and provide written
12 notification to the committee that the submission was made.

13 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
14 importance, takes effect upon enactment.

15 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
16 retroactively to any provision of an Act enacted on or after
17 January 11, 2021.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 Under Code section 17A.4, subsection 9, if a provision of
22 an Act of the general assembly expressly requires rulemaking
23 by an executive branch agency, or if another statute that
24 governs or is directly related to a provision of an Act of the
25 general assembly expressly requires rulemaking by the agency,
26 the agency must, within 180 days of the effective date of the
27 provision, submit a notice of intended action to commence the
28 rulemaking or submit written notification explaining the delay
29 to the administrative rules review committee (ARRC).

30 This bill authorizes the ARRC, by a majority vote, to reject
31 such a written notification for an Act of the general assembly
32 that expressly requires rulemaking. The bill also authorizes
33 the ARRC to find by a majority vote that an agency did not make
34 a timely submission for a provision of an Act of the general
35 assembly that expressly requires rulemaking by the agency as

1 required pursuant to Code section 17A.4, subsection 9. If
2 the ARRC takes either of these actions, the bill authorizes
3 the ARRC, by a majority vote, to impose a delinquency fee
4 on the agency of \$1,000 per Act. The ARRC must provide a
5 representative of the agency an opportunity to address the ARRC
6 concerning the rejection or lack of submission before imposing
7 such a fee and must notify the agency in writing of the amount
8 of the fee and the Acts of the general assembly for which the
9 fee was imposed.

10 An agency must, no later than 14 days after receiving
11 written notice of a delinquency fee, take one of two specified
12 actions. First, the agency may remit the amount of the fee
13 to the treasurer of state for deposit in the general fund of
14 the state. The agency shall only pay such remittance from
15 funds available for salaries, support, maintenance, or other
16 administrative costs of the agency. The agency shall not
17 pay such remittance from funds allocated for any program or
18 nonadministrative duty or function of the agency. Second, the
19 agency may submit a notice of intended action to commence the
20 rulemaking and provide written notification to the ARRC that
21 the submission was made.

22 The bill defines "provision of an Act of the general assembly
23 that expressly requires rulemaking" as a provision within the
24 text of an Act of the general assembly that explicitly requires
25 rulemaking, without reference to any statutory provision that
26 is not included in the text of the Act.

27 The bill takes effect upon enactment and applies
28 retroactively to January 11, 2021.